

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7466

Investigation into Petition Filed by Vermont Department)
of Public Service Re: Energy Efficiency Utility Structure)

Order entered: 9/11/2008

ORDER OPENING INVESTIGATION AND NOTICE OF PREHEARING CONFERENCE

I. BACKGROUND

Vermont's Energy Efficiency Utility ("EEU") program is currently operated under a short-term contract. Most EEU services are provided by Efficiency Vermont.¹ The Public Service Board ("Board") selects the Efficiency Vermont provider via a competitive solicitation, and signs a three-year contract with the winning bidder.² The Board also conducts competitive solicitations to hire an EEU Contract Administrator and a Fiscal Agent for the Energy Efficiency Utility Fund; contracts with these entities are also for three years. The Vermont Department of Public Service ("DPS") conducts savings-verification and evaluation activities related to the EEU, also on a three-year cycle.

In July 2007, the Board convened a Working Group to consider changing the EEU structure.³ The Working Group was open to all interested persons, and the e-mail list for the Working Group included over 100 names from a variety of stakeholders, including utilities, consumer groups, energy-efficiency providers, state agencies, environmental advocates, and others. The Working Group held eighteen workshops over the next eleven months, and produced a document entitled "A Draft of a Recommendation for a New Energy Efficiency Utility

1. The City of Burlington Electric Department provides EEU services in its service territory.

2. The contract includes an opportunity to renew for up to an additional three years.

3. When it did so, the Board noted that the current EEU structure has served Vermont well since the EEU's creation in March 2000. However, over that time the EEU program has matured, and the environment in which the EEU operates has changed. As a result, the Board identified several aspects of the current EEU program structure that may require modification to address these circumstances. Memorandum from Susan M. Hudson, Clerk of the Board, to Parties to Dockets 5980 and 7081 and to EEU E-mail Service List, dated July 13, 2007. *See also* Draft Task Statement that accompanied the July 13 memorandum.

Structure" ("Draft Recommendation"), which describes an "Order of Appointment" model. While the Draft Recommendation was the product of extensive Working Group discussions, not all participants agreed with all the ideas expressed therein.

In March 2008, Public Act 92 was enacted which, among other items, modified 30 V.S.A. § 209(d) to provide that the Board could appoint an EEU through either a contract or an order of appointment. This new legislation also clarified the Board's and the DPS's jurisdiction over an entity that is appointed via an order of appointment.

On August 28, 2008, the DPS filed a petition requesting that the Board open an investigation, pursuant to 30 V.S.A. §§ 2(c), 209(a), and 218(b), for the purpose of considering a change in the structure of the EEU. Accompanying the DPS's petition was the Draft Recommendation, which the DPS recommended serve as the starting point for this investigation.

The DPS's petition states that the Draft Recommendation is the result of good-faith efforts by Working Group participants to develop a potential framework for a new EEU structure. The DPS's petition also identifies a list of issues on which consensus was not reached in the Working Group's discussions. These issues include:

- whether to change the structure to an Order of Appointment model;
- the length of appointment and timeframe for presumption of competitive solicitation for services;
- whether to change the process for appointing EEU Advisory Committee members;
- transition issues associated with a move to a new structure;
- language regarding the relationship of the Energy Efficiency Charge, alternative funding options, and the EEU program budget;
- whether the EEU's "administrative efficiency" should be measured as a performance indicator; and
- whether certain customer-specific information should be made public if an efficiency investment was made using public dollars.

We are opening this investigation in response to the DPS's petition, and we accept the DPS's recommendation that the Draft Recommendation be used as the starting point for this investigation. Using the Draft Recommendation in this manner should facilitate the identification of issues to be resolved in this proceeding.

We will hold a prehearing conference in this proceeding at 3:30 p.m. on October 1, 2008, in the Board's Third Floor Hearing Room, Chittenden Bank Building, 112 State Street, Montpelier. At the prehearing conference, parties should be prepared to discuss the following issues:

- Whether this proceeding should be bifurcated, with the first phase focusing on the issues of whether a change in the EEU structure is warranted, and if so, whether changing the structure to an "Order of Appointment" model would promote the general good of the state. If the Board decides to change the structure, then the docket would proceed to a second phase which would address details associated with the new structure.
- What issues should be addressed in this proceeding, including what issues should be addressed in each phase, if this proceeding were to be bifurcated as described above.

II. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. Pursuant to Title 30 of the Vermont Statutes Annotated and the Rules of the Public Service Board, and in particular pursuant to sections 2(c), 209(a), and 218(b) of Title 30, an investigation is hereby instituted into the structure of Vermont's Energy Efficiency Utility program.

2. A prehearing conference will be held, pursuant to 30 V.S.A. § 10(c), on Wednesday, October 1, 2008, at 3:30 p.m., at the Public Service Board Hearing Room, Third Floor, Chittenden Bank Building, 112 State Street, Montpelier, Vermont. All parties shall be prepared to address questions of scheduling and intervention at that time, and shall be prepared to discuss whether this proceeding should be bifurcated as well as what issues should be addressed in this proceeding, as described above.

Dated at Montpelier, Vermont, this 11th day of September, 2008.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: September 11, 2008

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)